Court No.3

Criminal Revision No. 126 of 2002

Pradeep
S/o Ram Nagar Gali No. 13
Police Station Gang Nahar Roorkee .....Applicant

Vs.

State of Uttaranchal .....Opposite Party

Hon'ble Irshad Hussain, J.

This is a revision under Section 397/401 Cr. P.C. against the order dated 28.10.2002 whereby the learned Sessions Judge proceeded to frame charge in the case against the accused including the revisionist-accused.

Heard Sri Arvind Vashishth, learned counsel for the revisionist and the learned A.G.A. The learned counsel for the revisionist submitted that the impugned order does not conform to the requirement of Section 228 of the Cr. P.C. in as much as the learned Sessions Judge has not recorded finding that there was ground for presuming that the accused have committed the offence before proceeding to frame charge in the trial. Having gone through the impugned order, ex-facie the above argument appear relevant but in fact the tone and tenor of the order has to be considered while appreciating the legal merit of the order passed by the learned Judge. Although in actual wordings such a finding has not been given but on perusal of the documents relied upon by the prosecution the view taken by the learned Judge was that there was grounds for presuming that the accused have committed the offences. Considering this on the basis of the above argument, the impugned order cannot be assailed.

It also need to be noted that in F.I.R. there is specific assertion that all the thee assailants including the revisionist-accused came at the shop of the informant with intention to assault although one of them had played vital role in eliminating the victim of the case. The charge has been framed for the offence of the murder and considering that the three accused went there at the scene there appear no impropriety in framing of the charge against the revisionist also. Considering this, there is no merit in the revision and the same is hereby dismissed.

It is informed that occurrence took place about three years ago. In the interest of justice the learned Sessions Judge, is directed to expedite the trial of the accused.

(Irshad Hussain, J.)

17.10.2003
Rawat